

1. On January 11, 2012, Plaintiff filed a Motion to Set Aside [the January 3, 2012] Foreclosure (the “Motion to Set Aside”). See Doc. 90.

2. Plaintiff served the Motion to Set Aside to Defendants by United States Mail on January 9, 2012. See Doc. 90 at 6-7 (Certificate of Service).

3. Pursuant to this Court’s Civil Local Rules, “[a]ny party opposing a motion shall serve the party’s response, responsive memorandum, affidavits, and any other responsive material not later than fourteen (14) days after service of the motion. . . .” Local Rule 7.1(B). “For time periods greater than eleven (11) days, *the three (3) day mail extension of Rule 6[d] is added to the stated response time to create a lengthened time period.*” Local Rule 6.1(B) (emphasis added); see also Fed. R. Civ. P. 6(d) (“When a party may or must act within a specified time after service and service is made under Rule 5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise expire under Rule 6(a)”); Fed. R. Civ. P. 5(b)(2)(C) (noting that an approved method of service of a written motion is by “mailing it to the person’s last known address – in which event service is complete upon mailing”).

4. Because Plaintiff served the Motion to Set Aside to Defendants on January 9, 2012 by United States Mail, the deadline for Defendants to file and serve a response to the Motion to Set Aside was January 26, 2012, *not* January 23,

2012 as Plaintiff erroneously contends. See Fed. R. Civ. P. 6(d), 5(b)(2)(C); Local Rules 6.1(B) and 7.1(B).

5. Defendants timely filed and served their Response in Opposition to Plaintiff's Motion to Set Aside on January 26, 2012. See Doc. 92.

6. Accordingly, Plaintiff's Motion to Strike, filed on February 1, 2012, has no legal or factual basis and must be denied.¹

Respectfully submitted, this 10th day of February 2012.

/s/ Brooke F. Voelzke

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Electronic Registration Systems, Inc. and
Bank of America, N.A.***

¹ Moreover, Plaintiff's Motion to Strike should be denied as moot. On January 31, 2012, Magistrate Judge Scofield issued a Final Report and Recommendation, which recommended (among other things) that Defendants' Motions to Dismiss [Docs. 39, 41] be granted and Plaintiff's Motion to Set Aside [Doc. 90] *be denied as moot*. See Doc. 94 at 3-4.

CERTIFICATE OF COMPLIANCE PURSUANT TO LR 7.1D, NDGa.

The undersigned counsel hereby certifies that the foregoing has been prepared using one of the font and point selections approved in LR 5.1(C), NDGa.

This 10th day of February 2012.

/s/ Brooke F. Voelzke

Brooke F. Voelzke

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing
**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION
TO STRIKE** on Plaintiff, who is proceeding pro se, by causing a copy of the same
to be deposited in the United States mail, first class postage prepaid and properly
addressed to Plaintiff as follows:

Mr. Bosco A. Kante
2281069 Metavante Way
Sioux Falls, South Dakota 57186

Counsel for McCurdy & Candler, L.L.C. has been served via electronic
notification by the CM/ECF system.

This 10th day of February 2012.

/s/ Brooke F. Voelzke
Brooke F. Voelzke